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March 28, 2013

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street SW  
Washington, DC 20554

Re **CC Docket No. 02-6**  
Petition for Waiver  
FCC Form 471 to be filed on or about April 2, 2013  
Applicant: Westview School, BEN 100579

Dear Ms. Dortch,

With this letter Westview School ("Westview") requests a waiver of the FCC Form 471 filing window deadline for Funding Year 2013 under the schools and libraries universal service support mechanism (E-Rate).

**Background**

Westview is a supportive and nurturing environment where students can find success in learning. Westview is a private, non-profit middle and high school in Los Angeles serving high-potential special-needs students in grades six through twelve, including students with autism, ADHD, and other learning disorders. Our ability to prepare these students for productive lives is critically dependant on E-Rate funding.

In late January, 2013, I used the Form 470 Interview function on the USAC website to enter information for our FY2013 Form 470. I had believed that I had correctly entered all of the required information and that I had performed all necessary steps to submit the Form 470 and begin the 28-day Form 470 waiting period.

On March 5 – nine days before the FY2013 application deadline – I was preparing to enter our Form 471 funding application information. I was shocked to see that my Form 470 information had not posted to the USAC website. I did not know why the Form 470 information was not appearing on the USAC website, but I thought it best to try to access my Form 470 and try again to submitted it. I cannot say with certainty whether the problem in late January was the result of a problem with the USAC website, or by my own error or omission.

In order to comply with the 28-day waiting period, the earliest day I can submit Form 471 will be April 2, which will be 19 days after the FY2013 window-close date. I intend to submit Form 471 on that date.

### **Analysis**

Westview acted in good faith and exercised its best efforts to file the required Form 470 well before February 14, 2013 – the last date on which a Form 470 could be filed to provide sufficient time to comply with the 28-day posting period and submit Form 471 before the window-close date of March 14. On the date that Westview determined that there was some kind of technical problem with its Form 470 submission, Westview acted immediately – on that very day – to remedy the problem.

In *Academy of Math and Science*<sup>1</sup>, the Federal Communications Commission ("the Commission") found that filing of Form 471 late due to technical problems, when combined with the filing of a waiver petition within 14 days of the filing window deadline, is a special circumstance which justifies the grant of a waiver.

It is true that in the *Academy* order the Commission noted that "[i]n the future, the online version of the FCC Form 471 will be available after the deadline so applicants who file late will have to file their FCC Form 471 within 14 days, even if they have already filed a waiver request with the Commission." However, in the instant case there was a technical problem with the filing of Form 470 – not Form 471 – so the availability of the online Form 471 function should not result in the failure of the facts of this particular case to qualify as a "special circumstance" which merits a waiver grant.

Westview also asks the Commission to take notice that while USAC does provide detailed instructions on its website for *paper* Form 470 filers, nowhere on its website does USAC provide instructions for *online* Form 470 filers. Although the definitions of data fields are the same for the paper and online form, nowhere does USAC give guidance specifically for the online filing process. If USAC had provided for online filers even minimal procedural guidance – including a step showing how an online Form 470 applicant can confirm that Form 470 was submitted and accepted – the kind of problem we are experiencing would be unlikely to occur. And while one might point out that there does exist on the USAC website a feature which searches for posted Forms 470, that link is one of perhaps hundreds of links on the USAC website.

Finally, we note that denial of our funding request would impose severe hardship upon Westview, and the effect of such denial would be a profound adverse impact upon the educational services we provide for our special needs students. The consequences of a denial of funding would be inconsistent with the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.

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<sup>1</sup> *Academy of Math and Science Order*, 25 FCC Rcd 9256

**Request for Waiver**

Here there is not present any failure to become familiar with Commission rules or USAC procedures; rather, this is simply a matter of an inadvertent technical problem which, if left to stand, would result in an outcome inconsistent with the purpose of the Universal Service Fund program and inconsistent with the public interest. Therefore, for the reasons stated in this letter, Westview respectfully requests that the Federal Communications Commission grant a waiver of the FCC Form 471 filing window deadline for Westview's Funding Year 2013 E-Rate funding application.

WESTVIEW SCHOOL

*Ellen Retting*

Ellen Retting  
Director of Development